

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

CHRISTOPHER LUCERO, individually, as
Co-Personal Representative of the ESTATE OF
MARIA SANDOVAL, and as parent and next
friend of JAYLA LUCERO and AZTLAN
LUCERO, minors.

Plaintiffs,

v.

Case No.

GEORGE HEAGERTY, III and
USA CYCLING, INC.

Defendants.

USA CYCLING, INC.'S NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1332, 1441 and 1446, Defendant USA Cycling, Inc.

("USA Cycling"), files this Notice of Removal, and in support thereof, USA Cycling states:

1. Plaintiffs Christopher Lucero, individually and personal representative of the Estate of Maria Sandoval, and as parent and next friend of Jayla Lucero and Aztlan Lucero, minors ("Plaintiffs") filed a civil action against USA Cycling in the Fourth Judicial District Court, County of San Miguel, New Mexico on April 10, 2014. Defendant USA Cycling was served with a summons and complaint on April 23, 2014. Plaintiff brought this action alleging claims of wrongful death, negligence, independently and vicariously through the actions of defendant George Heagerty, and loss of consortium against USA Cycling and the other named defendant, George Heagerty. The case was assigned Cause No. D-412-CV-2014-00110. A true and correct copy of the Complaint is filed herewith as **Exhibit A**.

2. Plaintiffs, according the Complaint, are New Mexico residents. Defendant USA Cycling, Inc. is a corporation organized under the laws of the State of Colorado, with its

principal place of business located in Colorado Springs, Colorado. Defendant George Heagerty, III is a resident of San Antonio, Texas. Accordingly, there is diversity of citizenship under 28 U.S.C. § 1332(a)(1).

3. In the Complaint, Plaintiff Christopher Lucero seeks to recover for the alleged wrongful death of Maria Sandoval, both in an individual capacity, and as Personal Representative for the Estate of Maria Sandoval and her two minor children, and the amount in controversy in the matter is believed to exceed \$75,000. This Court has original subject matter jurisdiction over this action under 28 U.S.C. § 1332, because complete diversity of citizenship exists and the amount in controversy is believed to exceed \$75,000.00, excluding interest and costs. Diversity jurisdiction existed both at the time the state court action was filed and at the time of this removal. The case may be removed to this Court pursuant to 28 U.S.C. § 1441 and 1446.

4. Defendant George Heagerty, III has consented to the removal of this case to federal court. True and correct copies of consents to removal by Mr. Heagerty are attached hereto as **Exhibit B**.

5. Plaintiff's Complaint was filed on April 10, 2014 and Defendant USA Cycling was served with a summons on April 23, 2014. This Notice of Removal was filed within 30 days of receipt of a copy of Plaintiffs' Complaint and less than one year after the state court action was commenced. Thus this Notice of Removal is timely and all conditions and procedures for removal have been satisfied. A filing fee of \$400.00 is tendered herewith.

6. Contemporaneous with the filing of this Notice of Removal, USA Cycling is filing a Notice of Filing of Notice of Removal with the clerk of the Fourth Judicial District Court

of San Miguel County, New Mexico pursuant to 28 U.S.C. § 1446(d). USA Cycling has also given prompt notice of the filing of this Notice of Removal to all adverse parties. **Exhibit C.**

8. Pursuant to D.N.M.LR-Civ. 81.1(a), USA Cycling has attached copies of the proceedings from the records and proceedings from the state court action, attached chronologically as **Exhibit D.**

Accordingly, Defendant USA Cycling, Inc. removes this action and requests that this Court place this case on the docket of the United States District Court for the District of New Mexico.

Respectfully Submitted,

MADISON & MROZ, P.A.

By /s/ Jacqueline Olexy

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Counsel for Defendant USA Cycling, Inc.

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing pleading to be served electronically via this courts CM/ECF file and serve system and electronic mail this 20th day of May 2014, to counsel of record as follows:

Robert M. Ortiz, Esq.
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